

CHAPTER 17 [OLD]

VACANCIES

REPEALED. L 1970, c 26, §3.

CHAPTER 17 [NEW]

VACANCIES

Section

17-1 United States senator

17-2 United States representative

17-3 State senator

17-4 State representatives

17-5 Repealed

17-6 Board of education members

17-7 Board of trustees, office of Hawaiian affairs

§17-1 United States senator. When a vacancy occurs in the office of United States senator the vacancy shall be filled for the unexpired term at the following state general election, provided that the vacancy occurs not later than 4:30 p.m. on the sixtieth day prior to the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the senator causing the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. [L 1970, c 26, pt of §2; am L 1973, c 217, §7(a)]

§17-2 United States representative. When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matter as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title. [L 1970, c 26, pt of §2; am L 1973, c 217, §7(b); am L 1974, c 34, §4(a); gen ch 1985; am L 1986, c 305, §6]

Attorney General Opinions

Conflicts with Article I, §2, of U.S. Constitution with regard to unexpired terms for U.S. House of Representatives. Att. Gen. Op. 83-5.

§17-3 State senator. (a) Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment within sixty calendar days following the first day of vacancy to fill the vacancy for the unexpired term and the appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

(b) In the case of a vacancy, the term of which does not end at the next succeeding general election:

(1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

(2) If it occurs later than on the tenth day prior to the close of filing for the next succeeding primary election but not later than on the sixtieth day prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the fiftieth day prior to the next

succeeding primary election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

(3) If it occurs after the sixtieth day prior to the next succeeding primary but not later than on the fiftieth day prior to the next succeeding general election, or if there are no qualified candidates for any party or nonpartisan candidates in the primary, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Party candidates for the unexpired senate term shall be nominated by the county committees of the parties not later than 4:30 p.m. on the fortieth day prior to the general election; nonpartisan candidates may file nomination papers for the unexpired term not later than 4:30 p.m. on the fortieth day prior to the general election with the nonpartisan candidate who is to be nominated to be decided by lot, under the supervision of the chief election officer. The candidates for the unexpired term shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

(4) If it occurs after the fiftieth day prior to the next succeeding general election or if no candidates are nominated, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds. [L 1970, c 26, pt of §2; am L 1973, c 217, §7(c); am L 1980, c 247, §2; gen ch 1985; am L 1990, c 35, §2; am L 1992, c 276, §1]

Case Notes

Does not apply to vacancy in Senate resulting from death of candidate. 52 H. 410, 477 P.2d 625.

§17-4 State representatives. Whenever any vacancy in the membership of the state house of representatives occurs, the governor shall make an appointment within sixty calendar days following the first day of vacancy to fill the vacancy for the unexpired term and the appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds. [L 1970, c 26, pt of §2; gen ch 1985; am L 1992, c 276, §2]

§17-5 REPEALED. L 1990, c 35, §5.

§17-6 Board of education members. (a) The governor shall make an appointment to fill any vacancy in the membership of the board of education for the unexpired term of that vacancy whenever a vacancy occurs and the term of that vacancy ends at the time of the next succeeding general election.

(b) In the case of a vacancy, the term of which does not end at the next succeeding general election:

(1) If it occurs not later than on the sixtieth day prior to the next succeeding general election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the fiftieth day prior to the general election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy.

(2) If it occurs after the sixtieth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term.

(c) All appointments made by the governor under this section shall be made without consideration of the appointee's party affiliation or preference or nonpartisanship, however the persons so appointed shall meet the residency requirement specified in section 13-1. [L 1979, c 125, §2; am L 1980, c 247, §3; am L 1981, c 100, §3; am L 1985, c 170, §1; am L 1990, c 35, §3]

§17-7 Board of trustees, office of Hawaiian affairs. (a) Whenever any vacancy in the membership of the board of trustees occurs, the term of which ends at the next succeeding special election held in conjunction with the general election, the vacancy shall be filled by a two-thirds vote of the remaining members of the board. If the board fails to fill the vacancy within sixty days after it occurs, the governor shall fill the vacancy within ninety days after the vacancy occurs. When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term.

(b) In the case of a vacancy, the term of which does not end at the next succeeding special election held in conjunction with the general election:

(1) If it occurs not later than on the sixtieth day prior to the next succeeding special election held in conjunction with the general election, the vacancy shall be filled for the unexpired term at the next succeeding special election held in conjunction with the

general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the fiftieth day prior to the special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election, the board or the governor shall make a temporary appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term and shall serve until the election of the person duly elected to fill such vacancy.

(2) If it occurs after the sixtieth day prior to the next succeeding special election held in conjunction with the general election, the board or the governor shall make an appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term.

(c) All appointments made by the board or the governor under this section shall be made without consideration of the appointee's party preference or nonpartisanship. [L 1979, c 196, §9; am L 1980, c 247, §4; am L 1990, c 35, §4]

Attorney General Opinions

Board required to fill vacant trustee's position created by forfeiture of office. Att. Gen. Op. 84-3.